

REMARKS

By this paper, Claims 64, 66, and 67 have been amended. Claims 55-58, 62, 65, 70, and 71 have been canceled. Claims 86-102 are new. Support for the amendments to Claims 64, 66, and 67 can be found in the specification at least at paragraphs [0004], [0014], [0016], [0114], as well as Figures 1-5. No new matter has been added by this amendment. Claims 64, 66-67, and 86-102 are pending and presented for examination.

Rejections Under 35 USC § 101

Claim 66 is rejected under 35 U.S.C. 101, for allegedly reciting a use without setting forth any steps involved in the process, resulting in an improper definition of process. As discussed below, Applicant has amended Claim 66 to recite an "apparatus" rather than a "product." Accordingly, Applicant requests withdrawal of the rejection.

Rejections Under 35 USC § 112

First Paragraph

Claims 64 and 66 are rejected under 35 U.S.C. 112, first paragraph, as containing a purely functional recitation with no limitation of structure.

Regarding "electronically controllable active display area," the action asserts that the phrase is a purely functional recitation with no limitation of structure. Applicant has amended Claims 64 and 66 to recite an "electronically controllable display" to clarify the structural limitation. Accordingly, Applicant requests withdrawal of the rejection.

Second Paragraph

Claims 64, 66 and 67 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention.

Particularly, the Action rejects Claim 66's use of "the product," as the claim "does not set forth any steps involved in the method/process" and it is therefore unclear what method/process is intended to be encompassed. Applicant has amended the claim to recite an "apparatus" rather

than a "product." Applicant respectfully asserts that the rejection is therefore overcome and requests its withdrawal.

Regarding the phrase "an electronically controllable active display area," the claim has been amended to recite "an electronically controllable display" as described above. Applicant respectfully asserts that the rejection is therefore overcome and requests its withdrawal.

Regarding the phrase "display area", the claim has been amended to recite a "display." Applicant respectfully asserts that the rejection is therefore overcome and requests its withdrawal.

Regarding the phrase "noticeable to the user," the phrase has been removed from the claim and the rejection is therefore moot.

Regarding the phrase "the selected appearances," the Action asserts that there is inadequate antecedent basis for the phrase. Applicant has amended the phrase to recite "a selected appearance." Applicant respectfully asserts that the rejection is therefore overcome and requests its withdrawal.

Regarding "one portion of the surface comprises a separate component" found in Claim 64, the phrase has been removed, and the rejection is therefore moot.

Regarding the term "surface" found in Claim 67, the Action asserts there is inadequate antecedent basis. Applicant has amended the phrase to recite "a surface." Applicant respectfully asserts that the rejection is therefore overcome and requests its withdrawal.

Regarding the phrase "the fabrication" the phrase has been removed, and the rejection is therefore moot.

Regarding the term "its" the phrase has been removed, and the rejection is therefore moot.

Regarding the phrase "the light" the phrase has been removed, and the rejection is therefore moot.

Accordingly, Applicant respectfully requests withdrawal of the rejections.

Rejections Under 35 USC § 102

The Office Action indicated Claims 64, 66, and 67 are rejected under 35 U.S.C. 102(b) as being anticipated by DeMond et al. (US 5,079,544). MPEP § 2131 states "[a] claim is

anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Regarding Claims 66 and 67 - DeMond Fails to Disclose “An Absorber Layer, A Reflector, and An Interference Cavity Between the Absorber Layer and the Reflector”

Claim 66 recites an interference modulator having “the absorber layer and the reflector spaced apart by an interferometric cavity.” Claim 67 similarly recites “an absorber layer, a reflector layer, and an interferometric cavity defined by the absorber layer and the reflector for causing interference modulation of the light.” DeMond fails to disclose either of these limitations.

As discussed in the Interview, DeMond is directed to a projection system utilizing a digital micromirror device (DMD). When a DMD element is in an “on” position, the mirror directs light in a direction such that it will be visible by a viewer, such as towards a display screen. When the DMD element is off, the mirror directs light in a direction such that it will not be seen by a viewer (DeMond, at Col. 7, ln. 68 – Col. 8, ln. 7). DeMond therefore addresses the *redirection* of light (“SLM 15 is operative to selectively redirect portions of light from path 7 toward enlarger lens 5 and onto display screen 2 so as to from[sic] an image.”, Col. 6, lines 58-62) rather than light *modulation*. Accordingly, DeMond discloses neither an “interferometric cavity” nor causes “interference modulation of light.” For example, the path 7 found in DeMond lacks a “cavity”, particularly an “interferometric cavity.” Similarly, DeMond’s “spinning wheel” of Fig. 5c is not in a position to act as an absorber (but is instead “placed between light source 10 and lens 12 to help maintain the columnated beam” Col. 14, ln. 11-13).

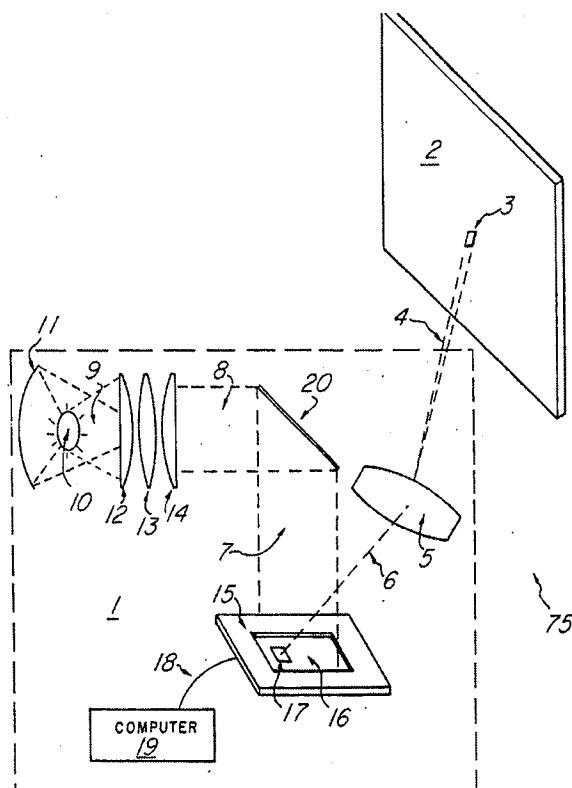


Fig. 1a

For at least these reasons, Demond fails to disclose the features “the absorber layer and the reflector spaced apart by an interferometric cavity” of Claim 66 and “an absorber layer, a reflector layer, and an interferometric cavity defined by the absorber layer and the reflector for causing interference modulation of the light” of Claim 67. As DeMond fails to disclose all the features of Claims 66 and 67, and therefore does not anticipate Claims 66 and 67, Applicant requests withdrawal of the rejections.

Regarding Claim 64

Claim 64, while reciting independently patentable features, depends from Claim 66. As discussed above, Applicant respectfully asserts that Claim 66 is in condition for allowance. Accordingly, Applicant submits that Claim 64 is also in condition for allowance for at least the same reasons as Claim 66, and requests withdrawal of the rejection of Claim 64.

Application No.: 09/991,378
Filing Date: November 21, 2001

No Disclaimers or Disavowals

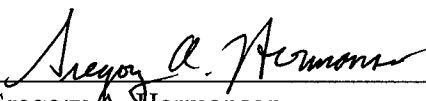
Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: February 1, 2010

By: 
Gregory A. Hermanson
Registration No. 53,018
Attorney of Record
Customer No. 59,747
(619) 235-8550

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